

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

GARY W. ANDERSON,)	
)	
Claimant,)	IC 98-500445
)	98-503467
v.)	02-504327
)	
HARPERS, INC.,)	
)	ORDER
Employer,)	
)	
and)	
)	Filed April 22, 2005
LIBERTY NORTHWEST INSURANCE)	
CORPORATION,)	
)	
Surety,)	
Defendants.)	
)	

Pursuant to Idaho Code § 72-717, Referee Rinda Just submitted the record in the above-entitled matter, together with her proposed findings of fact and conclusions of law, to the members of the Idaho Industrial Commission for their review. Each of the undersigned Commissioners has reviewed the record and the recommendation of the Referee. The Commission concurs with this recommendation. Therefore, the Commission approves, confirms, and adopts the Referee's proposed findings of fact and conclusions of law as its own.

Based upon the foregoing reasons, IT IS HEREBY ORDERED that:

1. Claimant is entitled to reasonable and necessary medical care as provided for by Idaho Code § 72-432 for treatment for his pulmonary embolism and his upper extremity tremor, both of which are causally traceable to Claimant's February 2002 injury and subsequent surgery.

2. Claimant is entitled to permanent partial impairment (PPI) totaling 95 weeks (19% x 500 weeks). Defendants are entitled to credit for amounts already paid.

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3. Claimant is totally and permanently disabled due to his impairments together with his substantial loss of access to the labor market, his fine motor and coordination deficits, and the side effects of medication prescribed to control his symptoms.

4. Because Claimant is totally and permanently disabled, he is not entitled to retraining benefits.

5. Claimant is entitled to attorney fees because of Surety's unreasonable denial of medical care and TTD benefits and unreasonable delay in paying for a portion of the medical care and all of the TTDs.

Unless the parties can agree on an amount for reasonable attorney fees, Claimant's counsel shall, within twenty-one (21) days of the entry of the Commission's decision, file with the Commission a memorandum of attorney fees incurred in counsel's representation of Claimant in connection with these benefits, and an affidavit in support thereof. The memorandum shall be submitted for the purpose of assisting the Commission in discharging its responsibility to determine reasonable attorney fees in this matter. Within fourteen (14) days of the filing of the memorandum and affidavit, Defendants may file a memorandum in response to Claimant's memorandum. If Defendants object to the time expended or the hourly charge claimed, or any other representation made by Claimant's counsel, the objection must be set forth with particularity. Within seven (7) days after Defendants' counsel files the above-referenced memorandum, Claimant's counsel may file a reply memorandum. The Commission, upon receipt of the foregoing pleadings, will review the matter and issue an order determining attorney fees.

6. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all

matters adjudicated.

DATED this 22 day of April, 2005.

INDUSTRIAL COMMISSION

Dissent without comment
Thomas E. Limbaugh, Chairman

/s/
James F. Kile, Commissioner

/s/
R.D. Maynard, Commissioner

ATTEST:

/s/
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 22 day of April, 2005 a true and correct copy of the foregoing **ORDER** was served by regular United States Mail upon each of the following persons:

LOUIS GARBRECHT
1400 SHERMAN AVE
COEUR D'ALENE ID 83814

DAVID P GARDNER
PO BOX 817
POCATELLO ID 83204-0817

djb

/s/